

CLEAN WATER ACT2-52-A. Class II Administrative Penalty: Initiation of Action; Public Notice; Consultation with State; Negotiation and Signing Consent Agreements; and Assessing Penalties

1. **AUTHORITY.** Pursuant to sections 309(g) and 311 of the Clean Water Act, the authority to:
  - a. Make findings of fact; propose penalty to be assessed; issue, amend, or withdraw Class II administrative complaints.
  - b. Provide, or cause to be provided, public notice of proposed assessment and provide commentors with copies of orders entered on consent or on default.
  - c. Consult with states, as required.
  - d. Sign consent agreements between the agency and the party against whom a Class II penalty is proposed to be assessed.
  - e. Issue final orders assessing Class II penalties where no hearing is requested by the respondent or pursuant to a consent agreement.
  - f. Decide petitions by commentors to set aside final orders entered without a hearing and provide copies and/or notice of the decision.
2. **TO WHOM DELEGATED.** Director, Enforcement and Compliance Assurance Division.
3. **LIMITATIONS.**
  - a. Any official exercising this authority may do so only for those cases initiated by Region 8.
  - b. Any official exercising this authority must consult with the regional counsel or his/her delegatee and obtain concurrence on legal sufficiency of documents to be issued before exercising authorities 1.a. or 1.d.
4. **REDELEGATION AUTHORITY.**
  - a. The authority to issue final orders under 1.e. may be redelegated to the regional judicial officer. All other authorities may be redelegated to the branch chief level, or equivalent. Authorities 1.b. and 1.c. may be further redelegated to the staff level. The AA's authority to consult with states may be transferred to regional office employees, with the agreement of the RA or his/her delegatee.
  - b. Persons exercising authority 1.d. may allow other appropriate EPA officers or employees to join as "co" or supplemental signatories.
  - c. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.

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5. **ADDITIONAL REFERENCES.**

- a. Sections 309(g) and 311 of CWA.
- b. Chapter 1, Delegations 1-37 and 1-38, entitled "Hearings" and "Adjudicatory Proceedings."
- c. 40 C.F.R. Part 22.



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Debra H. Thomas  
Acting Regional Administrator

APR 29 2019

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